

UNITED STATES DISTRICT COURT

FILED

WESTERN DISTRICT OF PENNSYLVANIA

JAN 30 2008

CLERK U.S. DISTRICT COURT
"EST. DIST. OF PENNSYLVANIA"

UNITED STATES OF AMERICA)
Plaintiff,)
-v-)
ISAIAH LUTHER MERCER)
Defendant.)
)

Case No.: 03-CR-19-Erie

MOTION TO MODIFY AN IMPOSED TERM OF IMPRISONMENT

PURSUANT TO TITLE 18 §3582

NOW COMES, Isaiah Luther Mercer, Defendant, acting "Pro Se", who respectfully ask this Honorable Court to GRANT his motion to modify an imposed term of imprisonment, pursuant to Title 18 USCS §3582(c)(2).

I. INTRODUCTION

On November 17, 2006, the Defendant (hereafter referred to as Mercer), was sentenced to a One Hundred Twenty (120) month term of imprisonment, and Five (5) years Supervised Release. This sentence was imposed after Mercer plead guilty to the following charges:

- 1) Title 21 USCS §841(a)(1): to manufacture, distribute, or dispense, or possess with the intent to manufacture, distribute, or dispense a controlled substance
- 2) Title 21 USCS §841(b)(1)(A)(iii): 50 grams or more mixture or substance described in clause (ii) which contains cocaine base

Mercer is currently serving his term of imprisonment while being housed at

Federal Prison Camp-McKean, in Bradford, Pennsylvania.

II. RELIEF REQUESTED

On November 1, 2007, the United States Sentencing Commission issued twelve (12) new amendments to the United States Sentencing Guidelines (USSG). The amendment to the Cocaine Base ("CRACK") guideline is of special importance to the merit of this instant motion. Also significant to the merit of this instant motion is that of a recent United States Supreme Court ruling: Kimbrough v United States, ___, S.Ct. ___, (2007), which has a tremendous impact in regards to the calculation of Cocaine Base ("CRACK") and its quantity in regards to sentencing. In Kimbrough, the United States Supreme Court States: "Based on additional research and experience with the 100-to-1 ratio, the [Sentencing] Commission concluded that the disparity 'fails to meet sentencing objectives set forth by Congress in both the Sentencing Reform Act and the 1986 Act'."

Mercer was sentenced under the USSG §2D1.1(4), which was an offense level 31, less his departure of 3 levels for acceptance of responsibility, which places his adjusted offense level at 29 (C.H. III). Under the USSG §Chapter 5, Part A, (sentencing table), the guideline range for Mercer's offense is: 108 - 135 months, as stated previously, Mercer received One Hundred Twenty (120) months. With a minimum of a two-level reduction, per the US Sentencing Commissions amendment, Mercer would fall in guideline range of 87 - 108 months, likely to receive Ninety-five (95) months; **that would be Twenty-five (25) months less than the term of imprisonment Mercer is currently serving.** Also the drug quantity involved in the sentencing of Mercer could now be recalculated under a less disparaging ration, than that of 100-to-1. **That recalculation alone could result in a multiple level reduction in regards to Mercer's offense level.**

On November 13, 2007, the Sentencing Commission met to discuss the retroactive

application of the November 1, 2007 amendments. On December 13, 2007, just two (2) days after the United States Supreme Court's landmark ruling in Kimbrough, the Sentencing Commission UNANIMOUSLY voted to make the amendments retroactive.

As stated above, the application of the retroactive guideline amendment alone could mean up to **TWENTY-FIVE (25) MONTHS OFF MERCER'S CURRENT SENTENCE**. Again, this is a calculation that **DOES NOT** take into consideration the recalculation of Mercer's drug quantity, that alone (the application of Kimbrough) could equate to **YEARS OFF MERCER'S SENTENCE**.

While incarcerated, Mercer has taken seriously his commitment to rehabilitation. For example, while serving his term of imprisonment, Mercer has accomplished the following:

- 1) Completion of the 40 hour Drug Program
- 2) Completion of a Spanish Program
- 3) Completion of a Real Estate Program
- 4) Completion of a Men's Health Program
- 5) Completion of a Personal Finance Program
- 6) Completion of the G.E.D. Program
- 7) Completion of the Legal Research Program
- 8) Completion of the Computer Program

Mercer has also completed numerous bible study course, more than ten (10), and he is an active Inmate Minister at Federal Prison Camp-McKean. Mercer ask that this Honorable Court take all the above aspects into consideration when deciding the merit of this instant motion.

Mercer respectfully ask this Honorable Court to **VACATE** his current sentence of One Hundred Twenty (120) months and **REMAND** his case back for resentencing, pursuant to Title 18 USCS §3582(c)(2).

III. PRO SE FILING

Mercer has filed this motion "Pro Se" and ask this Court that he be liberally construe in regards to the form and content of this motion. See: Haines v Kerner, 404 US 519(1972): "...pro se complaints held to a less stringent standard than formal papers presented by lawyers".

IV. CONCLUSION

In conclusion, Mercer again respectfully ask this Honorable Court to **VACATE** & **REMAND** his current sentence pursuant to Title 18 USCS §3582(c)(2).

Respectfully Submitted,



January 28, 2008

Isaiah Luther Mercer
Fed. No.: 39910-039
Federal Prison Camp-McKean
P.O. Box: 8000
Bradford, PA 16701

CERTIFICATE OF SERVICE

I, Isaiah Luther Mercer, hereby certify that I served an exact and true copy of the foregoing motion upon **Christopher Trabold, Assistant United States Attorney** for the Western District of Pennsylvania, to his last known address:

**Christopher Trabold
Assistant U.S. Attorney
Federal Courthouse
Room: A330
17 South Park Row
Erie, PA 16501**

This motion was mailed by regular U.S. Mail, postage prepaid, on this, the 28th, day of January, 2008.

Respectfully,



Isaiah Luther Mercer
Fed. No.: 39910-039
Federal Prison Camp-McKean
P.O. Box: 8000
Bradford, PA 16701

Isaiah L. Mercer
Fed. No.: 39910-039
Federal Prison Camp-McKean
P.O. Box: 8000
Bradford, PA 16701

January 28, 2008

CLERK OF COURTS
United States District Court
17 South Park Row
Erie, PA 16501

Re: Case No: 30-cr-19-Erie

Dear Clerk of Courts:

Enclosed you will find my motion to modify an imposed sentence, pursuant to **Title 18 USCS §3582**. I would ask that you please file this instant motion for me and PLEASE send me confirmation that this motion has, in fact, been received & filed.

Thank you in advance for your time and consideration in regards to this matter, I hope this has not been an inconvenience to you or your office.

Respectfully,



Isaiah L. Mercer